

(Rev. 01/21) Complaint for Violation of Civil Rights (Prisoner)

## UNITED STATES DISTRICT COURT

for the

Western District of New York

Case No.

24-CV-485

(to be filled in by the Clerk's Office)

Jeremiah Folsom HerbertPlaintiff(s) Pro-se

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

(SEE-ATTACHED)Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

JURY TRIAL: Yes \_\_\_ No ☒

## COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

## NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK  
MR. JEREMIAH Folsom HERBERT, PRO-SE, PLAINTIFF  
- V.S -  
42 U.S.C. 1983 Action

- #1) Deputy Superintendent  
E. RACZKOWSKI, (D.S.S.), 7AM TO 3PM, TOUR shift  
Attica Correctional Facility, Individual Defendant
- #2)- SERGEANT, W. Tomporowski, 3PM TO 11PM;  
TOUR shift, Attica C.F, Individual- Defendant
- #3)- SERGEANT A.J. Holman, 3PM to 11PM TOUR  
Attica C.F, Individual Defendant, (R.R.U. unit)
- #4) CORRECTIONAL OFFICER Goodwin, 3PM TO 11PM  
TOUR shift- A Block Company- Attica C.F,  
Individual Defendant
- #5) CORRECTIONAL OFFICER J. ELLIS, 3PM TO 11PM  
TOUR shift, Shu R.R.U. unit, Attica C.F,  
Individual Defendant

Each Listed Defendant Is Being Sued Under  
Individual Capacity And Under Color of Law,  
Plaintiff- pro-se, Brings This Action Under  
42 U.S.C. 1983 Civil Right Act 1871, Each  
Defendant Employed In Wyoming, New York  
In The Town of Attica New York  
Judge Trial Is Formally Requested For  
Each Individual Defendant, E- Raczkowski,  
W. Tomporowski, A.J. Holman, Goodwin, J. Ellis,  
Each Violated Plaintiffs Constitutional Rights.

(Rev. 01/21) Complaint for Violation of Civil Rights (Prisoner)

**I. The Parties to This Complaint****A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

JEREMIAH Folsom HERBERT

All other names by which  
you have been known:

NONE

ID Number

2381459

Current Institution

Attica Correctional Facility

Address

P.O. Box 149

Attica

NY

14011-0149

City

State

Zip Code

**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

E. PACZKOWSKI, 7AM TO 3PM

Job or Title (*if known*)Deputy Superintendent of Security,  
N/A

Shield Number

Employer

Attica Correctional (DOCS)

Address

639 Exchange St. P.O. 149

Attica

NY

14011-0149

City

State

Zip Code

☒ Individual capacity☒ Official capacity

Defendant No. 2

Name

W. Tomporowski

Job or Title (*if known*)SERGEANT, 3PM TO 11PM Shift  
N/A

Shield Number

Employer

Attica Correctional Facility (DOCS)

Address

631 Exchange Street, P.O. Box 149

Attica

NY

14011-0149

City

State

Zip Code

☒ Individual capacity☒ Official capacity

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## Defendant No. 3

Name  
Job or Title (if known)  
Shield Number  
Employer  
Address

A.J. Holman  
SERGEANT, 3pm to 11pm shift  
N/A  
ATTICA C.F. (DOCS)  
639 Exchange St. P.O. Box 149  
ATTICA NY 14011-0149  
City State Zip Code  
☒ Individual capacity ☐ Official capacity

## Defendant No. 4

Name  
Job or Title (if known)  
Shield Number  
Employer  
Address

Goodwin  
CORRECTION OFFICER 3pm to 11pm  
N/A  
ATTICA C.F. (DOCS)  
639 Exchange Street. P.O. 149  
ATTICA NY 14011-0149  
City State Zip Code  
☒ Individual capacity ☐ Official capacity

## II.

## Basis for Jurisdiction

- Defendant #5 - J. Ellis, C.O.  
ATTICA C.F. ATTICA, NY

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

## A. Are you bringing suit against (check all that apply):

- ☐ Federal officials (a *Bivens* claim)  
☒ State or local officials (a § 1983 claim)

## B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Eighth And Fourteenth Amendment

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

(See Attach Pages) Enclosed

### III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☒ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☐ Other (explain) \_\_\_\_\_

### IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

None

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

Attica Correctional Facility  
(See Enclosed Documents)

C. What date and approximate time did the events giving rise to your claim(s) occur?

( See Enclosed Documents )

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

( See Enclosed Document to Support  
Claim And Relief Requested: )

**V. Injuries**

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

( See Enclosed Documents to Support  
All Physical And Emotional Injuries  
For Relief )

**VI. Relief**

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

( See Enclosed Documents to Support  
Claim + Constitutional Violation )



**VII. Exhaustion of Administrative Remedies Administrative Procedures**

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Attica Correctional Facility

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☒ Yes

☐ No

☐ Do not know

If yes, which claim(s)?

(SEE ENCLOSED DOCUMENTS)

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☐ No

E. If you did file a grievance:

1. Where did you file the grievance?

I.G.R.C. Coordinator, Albany Central Office

2. What did you claim in your grievance?

1) Failure to Protect  
2) Condition of Confinement  
3) Excessive Force, (See Enclosed)

3. What was the result, if any?

(See Enclosed Document)

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

Appeal to highest level (See Enclosed Documents)



F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

NONE

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2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

N/A

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G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

(See Enclosed Attach Documents)

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(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

#### VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

N/A

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- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes☒ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) N/ADefendant(s) N/A

2. Court (if federal court, name the district; if state court, name the county and State)

N/A

3. Docket or index number

N/A

4. Name of Judge assigned to your case

N/A

5. Approximate date of filing lawsuit

N/A

6. Is the case still pending?

☐ Yes☐ No

If no, give the approximate date of disposition.

N/A

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

N/A

(Rev. 01/21) Complaint for Violation of Civil Rights (Prisoner)

**IX. Certification and Closing**

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

**A. For Parties Without an Attorney**

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 5/9/2024

Signature of Plaintiff [Signature]

Printed Name of Plaintiff Jeremiah Herbert

Prison Identification # 2301459

Prison Address 639 Exchange St P.O. 149

Attica NY 14011

City State Zip Code

**B. For Attorneys**

Date of signing: N/A

Signature of Attorney [Signature]

Printed Name of Attorney \_\_\_\_\_

Bar Number \_\_\_\_\_

Name of Law Firm \_\_\_\_\_

Address \_\_\_\_\_

City State Zip Code

Telephone Number \_\_\_\_\_

E-mail Address \_\_\_\_\_

Print

Save As...

Add Attachment

Reset

Western District Court

AFFIDAVIT OF SERVICE OF MAILING

STATE OF NEW YORK

COUNTY OF Wyoming

) ss.:

U.S.C. 1983

Action Civil Right

Complaint with

Exhibits enclosed

Jeremiah Herbert, being duly sworn, deposes and says:On the 14th day of May, 20 24, I served a true copy of the annexed 42 U.S.C. 1983 Claim by mailing the same in a sealed envelope, with

postage prepaid thereon, in a post office or official depository of the U.S. Postal Service within the

State of New York, addressed to the last known addressee(s) as indicated below:

(Insert here the name[s] and address[es] of the person[s] to whom you are mailing the papers being filed with this Court. If necessary, attach extra pages for additional names and addresses.)

Name & Address	Name & Address
1) Clerk of Court Buffalo NY Western District,	
2) Chief Clerk of Court 2-Niagara Square Buffalo, N.Y. 14202-3328	
3) Pro-se State Office Western District Court 2-Niagara Square Buffalo, NY 14202-3328 Attn: Pro-se Clerk	
4) U.S. District Court, Western District Court 2 Niagara Square, Buffalo, NY 14202-3328	
5) State of New York, Attorney General Office The Capitol, Dept. of Law Albany, NY 12207	

(Signature)

(Print Name)

Sworn to before me this

14th

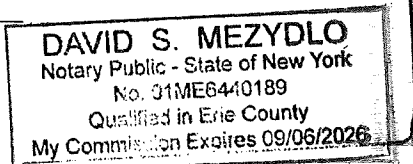
day of

May2024David S. Mezydlo

Notary Public

Revised:

September 18, 2018



Jeremiah Folsom Herbert, Pro-se, Plaintiff  
 639 Exchange Street, P.O. 149  
 Attica, N.Y. 14011-0149

May 14th, 2024

Attn: Chief Clerk of Court  
 Pro-se Intake Officer  
 Western District Court of New York  
 2-NISABA SQUARE  
 Buffalo, N.Y. 14202-3328

Formal Matter: 42 U.S.C. 1983 Complaint,  
 Documents, And Exhibits Being Filed

Dear Clerk of Court:

Please Take Notice As Pro-se Plaintiff Under  
 Federal Rules of Western District Court, I Do  
 Hereby Filed Original 42 U.S.C. 1983 Civil  
 Rights Complaint To Be Proper Assigned To  
 Western District Court Judge, And For All  
 Proper Relief Requested Upon Actions Shall  
 Be Fully Granted Upon Filed Action,  
 Upon Information And Belief All Arguments  
 And Civil Rights Claims Are Clear And  
 Specific To Support Constitutional Rights  
 Violations Imposed By Defendants Listed  
 And I.F.P. Status Shall Be Granted.

O.C. File

Pro-se office

Respectfully Submitted.  
 Za / N 14  
 Jeremiah Herbert

#1) This Cause of Action Arose At Attica C.F.,  
In The Western District Of New York Is  
Therefore Proper Venue For Filing 42 U.S.C. 1983.  
#2)- Plaintiff PRO-SE Did Fully Indeed Exhaust  
Under DOCS Directive 4040 And 42 U.S.C. 1997(e)  
All Grievances, Complaint Letters To Bring Action,  
Plaintiff Did Exhaust All Internal Prison  
Administrative Procedures For Each Claim.  
#3) At All Times Relevant, Each Defendant  
E. RACZKowski, W. Tomporowski, A.J. Holman,  
Goodwin, J. Ellis, In Individual Capacity  
Acted Under Color Of Law In Violation Of  
Plaintiffs Constitutional Rights Under 42 U.S.C. 1983  
#4) Plaintiff Did Indeed Did Suffer  
Actual Injuries Medical Reports From  
Erie County Medical Hospital (E.C.M.C.) Will  
Show Proof Of All Injuries By Defendants.  
#5) Deputy Superintendent Of Security  
E. RACZKowski, Is And Was At All Times  
Relevant In Violations Of Day To Day  
Operations And Failed To Fully Execute  
DOCS Policies In Violation Of The Eighth  
And Fourteenth Amendment Of U.S. Constitution.  
E. RACZKowski, Worked 7AM To 3PM Tour  
Assigned As Deputy Of Security At Attica C.F.



- 6) SERGEANT W. Tomporowski, 3pm to 11pm TOUR Shift, was At All Times Relevant Did Violate Day to Day Operations As A Unit-Supervisor Inside Shul Ross Unit And Failed To Properly EXECUTE Policy In Violation Of The Eighth And Fourteenth Amendment!
- #7) SERGEANT A.J. Holman, 3pm TO 11pm TOUR Shift, was At All Times Is Relevant Did Indeed Violate Day to Day Operations And Docs Policies As Unit Supervisor In Violation Of Eighth And Fourteenth Amendment Rights.
- #8) CORRECTION OFFICER Goodwin OF 7Am TO 3pm/ 3pm TO 11pm Assigned TO A-Block Unit, Did Fail To Protect Plaintiff And was At All Times Relevant Did Violate Risk Of Harm And Danger To Deprive Adequate Protection To Protect Federal Constitutional Rights By law.
- #9) CORRECTION OFFICER J. Ellis, 3pm TO 11pm TOUR Shift whom At All Times Is Relevant Violate Day to Day Operations As Docs Employee Inside Special housing unit And Failed To Properly EXECUTE Docs Policy And Procedure S In Violation Of The Eighth And Fourteenth Amendment under Color Of law.
- #10) Plaintiff, WAS In Custody At Adtica C/F. At All Times Violation Imposed.

## STATEMENT OF FACTS TO SUPPORT RELIEF:

- A) ON MARCH 10th, 2024 Plaintiff By way of LETTER Form Did Inform Defendant A.J. Holman And E. RACZKOWSKI: OF Threats of Violence And Issues with Known Gang members, Plaintiff Did Request to Be Rehoused to Another Housing Unit to Prevent harm And Acts of Assault.
- B) ON APRIL 18th, 2024 Inmate Nelson And Inmate Hardy Did Throw milk And Feces on Plaintiff Living Quarters to provoke harm, At 2:10pm Officer Goodwin And A.J. Holman, And E. RACZKOWSKI All made Aware of Incident.
- C) At 7:30pm on APRIL 18th, 2024 Plaintiff WAS Indeed physically Assaulted And Harm By Nelson And Hardy, E. RACZKOWSKI, Officer Goodwin, Sgt. A.J. Holman on A-Block 5- Company Failed to Take Any Reasonable measures to protect Plaintiff's safety And Allowed Nelson to Cause serious harm to Plaintiff, No officers Did Intervene to prevent harm or Injuries to Plaintiff.
- D) Defendants Sgt. A.J. Holman, D.S.S. RACZKOWSKI, Officer Goodwin, Sgt. W. Tomporowski, Officer Ellis Did not provide Any Level of Care or Duty; At 10:50pm on APRIL 18th, 2024 Plaintiff was Taken to E.M.C. Hospital for Suffered Injuries Because of Failure to protect Actions.

E) ON APRIL 19th, 2024 ONCE RETURNED BACK TO ATTICA FACILITY FROM HOSPITAL SGT. A.J. HOLMAN, SGT. W. TOMPOROWSKI, D.S.S. E. RACZKOWSKI, OFFICER GOODWIN AND OFFICER J. ELLIS TOOK PLAINTIFF TO SPECIAL HOUSING UNIT WITH HANDCUFFS ON WHILE WALKING DID PUNCH, KICK, AND ASSAULT PLAINTIFF

F) ON APRIL 20th, 2024 PLAINTIFF WAS PLACED INSIDE SPECIAL HOUSING UNIT CELL C-E-18 BY SGT. HOLMAN, E. RACZKOWSKI, W. TOMPOROWSKI, J. ELLIS, GOODWIN, WITHOUT HOT WATER, PLACED INSIDE CELL C-E-18 WITH BLACK MOLD, FECES, AND MILDREW ON CELL WALLS AND CELL FLOORS.

G) ON APRIL 20th, 2024 SGT. A.J. HOLMAN, AND D.S.S. E. RACZKOWSKI, AND SGT. W. TOMPOROWSKI DID DENY PLAINTIFFS REQUEST FOR PROTECTIVE-CUSTODY AND DEPRIVED PLAINTIFF MINIMAL PROVISIONS OF LIFE AND SAFETY REQUEST; PLAINTIFF WAS INDEED DEPRIVED ANNUAL SHOWERS, NO PROPER FOOD, AND SUBJECTED TO LIVE IN A VERY DEPLORABLE CELL FOR OVER 3-WEEKS.

H) ON APRIL 22nd, APRIL 26, 28th, 2024 PLAINTIFF DID INDEED USE FACILITY GRIEVANCE PROCEDURE TO FILE COMPLAINT UNDER DOCS DIRECTIVE ABOUT HOW E. RACZKOWSKI, J. ELLIS, GOODWIN, A.J. HOLMAN, AND SGT. W. TOMPOROWSKI DID SUBJECT HIM TO INTENTIONAL HARM, EXCESSIVE FORCE, AND SAFETY ISSUES.

F) ON May 2nd, 2024 PER ORDERS OF D.S.S. E. RACZKOWSKI, SGT. W. TOMPOROWSKI, SGT. A.J. HOLMAN, OFFICER J. ELLIS, OFFICER GOODWIN TOOK PLAINTIFF FROM C-E-18 CELL IN HANDCUFFS TO A ROOM DOWNSTAIR INSIDE SPECIAL HOUSING UNIT BECAUSE OF FILED GRIEVANCES TO USE PHYSICAL FORCE AND DID SUBJECT PLAINTIFF TO BEING DROPPED OUT OF HIS CELL HEAD FIRST AND KICKED IN THE UPPER BACK AREA BY J. ELLIS, A.J. HOLMAN, AND SGT. W. TOMPOROWSKI, PLAINTIFF ON MAY 2ND, 2024 DID SUFFER INJURYS BECAUSE OF ASSAULT.

J) AT 3:30PM ON MAY 2ND, 2024 PLAINTIFF WAS REHUSED TO B-N-6 CELL INSIDE R.R.U. UNIT TO A CELL WITH NOW A BROKEN SINK AND WITH A BROKEN TOILET, BUGS, INSECTS, AND BLACK MOLD ALL OVER CELL. AT 4:10PM ON MAY 2ND 2024 PLAINTIFF DID REQUEST TO DEFENDANT J. ELLIS, SGT. W. TOMPOROWSKI, SGT. A.J. HOLMAN AND DSS E. RACZKOWSKI FOR MEDICAL ATTENTION FOR STOMACH PAINS, BACK PAINS AND TROUBLE BREASTING, PLEAS FOR HELP WERE INDEED IGNORED, PLAINTIFF SUFFERED UNDOE HARDSHIP, ASSAULT AND SUFFERED INJURIES, EACH DEFENDANT HAD PERSONAL INVOLVEMENT IN ACTS. [PAGE # 3]

STATEMENT OF CLAIM FOR RELIEF:  
Each Defendant E. RACZKOWSKI, OFFICER ELLIS,  
OFFICER GOODWIN, SGT. A.J. HOLMAN, SGT. W.  
TOMPOROWSKI, Acts were Indeed Forseeable  
And Each Defendant was personally involved  
And did pose negligence to plaintiffs  
Constitutional Rights. From April 18th, 2024 until  
May 10th, 2024 Defendants E. RACZKOWSKI,  
OFFICER J. ELLIS, OFFICER GOODWIN, SGT. A.J. HOLMAN,  
SGT. W. TOMPOROWSKI Acts were Indeed  
with Deliberate Indifference to plaintiff  
Risk to Health And Safety, physical  
Injuries Because of Acts of Excessive-  
Force used, And Brutal Assault And  
Failure to protect posed A Substantial  
Risk of Serious harm to plaintiff.  
Each Defendant E. RACZKOWSKI, SGT. HOLMAN,  
OFFICER J. ELLIS, OFFICER GOODWIN And SGT.  
W. TOMPOROWSKI shall be Individually  
be held Responsible for Personal Involvement  
under U.S.C. 42 1983 Claim And Relief  
Each Defendant under Color of law  
shall be liable for Harmful Effects  
And Injuries upon plaintiff.

(PAGE #1)



Case 1:24-cv-00485-JLS Document 1 Filed 05/20/24 Page 20 of 68  
Eighth Amendment Violations 42 USC 1983  
Failure To Protect Claim:

ON March 10th, 2024 AND April 18th, 2024  
EACH LISTED DEFENDANT D.S.S. E. RACZKOWSKI,  
OFFICER GOODWIN, SGT. A.J. HOLMAN, OFFICER ELLIS,  
SGT. W. TOMPOROWSKI, FAILED TO PROTECT PLAINTIFF  
FOR UNJUST ATTACK ON A-BLOCK UNIT.  
EACH ATTICA C.F. DOCS EMPLOYEE AND DEFENDANT  
ARE FULLY RESPONSIBLE FOR KEEPING ALL  
INCARCERATED INDIVIDUALS SAFE FROM THE  
RISK OF PHYSICAL VIOLENCE BY OTHERS.  
ON March 10th, 2024 BY LETTER PLAINTIFF  
DID REQUEST ADEQUATE PROTECTION TO  
D.S.S. E. RACZKOWSKI, SGT. A.J. HOLMAN  
AND OFFICER GOODWIN, ON April 20th, 2024  
AFTER April 18th, 2024 ASSAULT ON A-BLOCK  
5-COMPANY PLAINTIFF BY E. RACZKOWSKI,  
SGT. W. TOMPOROWSKI, A.J. HOLMAN, GOODWIN,  
OFFICER J. ELLIS PREVENTED PROTECTIVE  
CUSTODY. PLAINTIFF CAN SATISFY ALL  
REQUIREMENTS UNDER SECTION 1983 TO  
STATE FAILURE TO PROTECT CLAIM UNDER THE  
EIGHTH AMENDMENT OF CONSTITUTION FOR  
RELIEF. PLAINTIFF SHALL INDEED BE ENTITLED  
TO RECOVER DAMAGES FOR PHYSICAL INJURIES  
ON April 18th, 2024, April 19th, 2024, May 3rd, 2024  
AND MEDICAL RECORDS FROM (E.C.M.C.)  
HOSPITAL WILL SHOW DAMAGE, EACH  
INDIVIDUAL DEFENDANT FAILED IN ITS DUTY  
OF CARE.



UNDER Failure to protect And Risk of harm  
 Claim, Each Individually Defendant Goodwin,  
 E. RACZKOWSKI, A.J. Holman, W. Tomporowski,  
 Officer J. Ellis, Each Shall Be Fully Liable  
 Under Personally Involvement under 42 U.S.C.  
 1983 Claim; Plaintiff Physical Injuries  
 By Photographs, And Picture, Also E.C.M.C.  
 Medical Records will show how on April 18<sup>th</sup>,  
 2024 Plaintiff Life was put Into Danger  
 On A-Block S-Company, Attica C.F.  
 UNDER 42 U.S.C. 1997(e)(A) Plaintiff Did  
 Indeed Follow Proper Grievance Procedure  
 (See Exhibit) And Filed Grievances At  
 Attica C.F. Under Docs Directive 4040  
 With Regards To Failure to protect And  
 Risk of Harm. Defendants Each Violated  
 The law, Docs policies To Impose The  
 Following upon Plaintiff:

- 1) Emotional distress
- 2) mental Anguish
- 3) physical Injuries

Relevant Documentary Evidence At Nov-July  
 Trial With prove Claim And Constitutional  
 Violation; Defendants Failed To Ensure  
 Plaintiff Safety While In Custody At  
 Attica C.F. And Shall Be Fully Liable.

# 42 U.S.C. 1983 Constitutional Rights Violation:

## COUNT-ONE: Failure to Protect Claim /

### BREACH OF DUTY TO PROTECT CLAIM

1) Each Defendant D.S.S. E. RACZKOWSKI, OFFICER GOODWIN, OFFICER J. ELLIS, SGT. A.J. HOLMAN, SGT. W. TOMPOROWSKI, ON APRIL 18<sup>th</sup>, 19<sup>th</sup>, 20<sup>th</sup>, MAY 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 7<sup>th</sup>, 2024 EACH EXERCISED DELIBERATE INDIFFERENCE TO PLAINTIFF HEALTH AND SAFETY AT ATTICA CORRECTIONAL FACILITY.

2) Each Defendant, E. RACZKOWSKI, J. ELLIS, GOODWIN, A.J. HOLMAN, W. TOMPOROWSKI DID FAIL TO PROTECT PLAINTIFF FROM APRIL 18<sup>th</sup>, 2024 A-BLOCK ASSAULT AND ATTACK, ON APRIL 18<sup>th</sup>, APRIL 19<sup>th</sup>, 2024 Defendant E. RACZKOWSKI, GOODWIN, A.J. HOLMAN SAW ATTACK ON A-COMPANY DESPITE SEEING PLAINTIFF SUFFER Defendant E. RACZKOWSKI, A.J. HOLMAN AND GOODWIN ON APRIL 18<sup>th</sup>, 2024 AT 7:00PM FAILED TO STOP INMATE NELSON FROM ATTACKING PLAINTIFF ON A-BLOCK 5-COMPANY. PLAINTIFF DID SUSTAINED MULTIPLE INJURIES, ON MARCH 10<sup>th</sup>, 2024 Defendant RACZKOWSKI, AND HOLMAN KNEW OF ATTACK AND COULD HAVE PREVENT APRIL 18<sup>th</sup>, 2024 INCIDENT.

# 42 U.S.C. 1983 Actions

3) Plaintiff on April 18th, 2024 was Brought to E.C.M.C. Hospital FOR EXRAYS, M.R.I., AND Had BRUISES to Face, Body And Head AS well AS Migraine Headaches, dizziness, Plaintiff ALSO Suffered Extreme Emotional Distress From April 18th, And April 19th, 2024 Incident. No Defendant took Any Reasonable step to prevent harm OR to Intervene, April 18th, 2024 And April 19th, 2024 Assault on A-Block upon Plaintiff was Unjustified And was without Any Form of Provocation And it was Done Intentionally And Willfully. Plaintiff WAS A Victim of physical Assault And Each Defendant Disregarded Their Duty to protect; Physical Injuries Are As Follows:

A) Broken Nose

B) Impaired vision to Right Eye

C) Neck And Back Pains

E.C.M.C. Medical Records At Trial Can prove Suffered Injuries And Failure to

Failure to Protect Context, On March 10th, 2024 plaintiff did Request to D.S.S. E. RACZKOWSKI, And Goodwin And Sst. AJ. Holman to Be Released And Request to Be kept-separated From Nelson And Hardy, Because Each posed An Unreasonable Risk of Danger to plaintiff, Nelson And Hardy Are Both Blood Members, And plaintiff on March 10th, 2024 Request to Be kept Apart And to Be moved. On April 18th, 2024 Violence And Serious harm on A-Block 5-Company was Imposed, plaintiff was Indeed Attacked, while officer Goodwin working unit, And AJ. Holman And Sst. W. Tomporowski, And officer Ellis, And D.S.S. E. RACZKOWSKI Show Deliberate Indifference to plaintiffs Health And Safety, Physical Injuries were Indeed Sustained From Attack, Each Defendant Acted Reckless And Failed to Act With Reasonable Care. PAGE # 31

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Eighth Amendment Violations Condition of Confinement Claim	72 U.S.C. 1983 Action
<p>Eighth Amendment Violation Exit And Was Indeed Imposed By Defendants E. RACZKOWSKI, Goodwin, Sgt. W. Tomporowski, A.J. Holman, J. Ellis, Did From April, 2024 until May, 2024 Did Impose Undue Harship By Placing Plaintiff Inside UNSANITARY Living Quater C-E-18 Cell And B-N-6 Cell with URINE, Feces, piss, Black-mold, mildew ON Cell Walls And Floors. NO Adequate Civil Life BASIC Neccissites, Under Color of law Each Defendant E. RACZKOWSKI, A.J. Holman, Goodwin, Sgt. W. Tomporowski, J. Ellis, Each had Personal Involvement TO Deprived Plaintiff Harsh Conditions OF Confinement; Plaintiff Did Indeed Such Suffered BACK Injuries, Headaches, Sleepless Nights, And Mental Anguish.</p> <p>Plaintiff ON April 20th, 2024, April 27th 2024, May 2nd, 2024, May 8th, 2024 Did File Grievances And Complaint Letters TO Docs Commissioner And Inspector General Office ABOUT Sanitary Issues And Health And SAFETY Concerns. Each Listed Defendant Did Indeed PURPOSELY Ignore Sanitary Cell Condition Concerns, Defendants Took A Total Disregard to violate Eighth Amendment Under Conditions OF Confinement claim.</p> <p style="text-align: center;">①</p>	



Each Defendant E. RAEZKAWSKI, Goodwin, [2]  
A.J. Holman, Sgt. W. Tomporowski, J. Ellis Each  
shall be Individually Held Responsible For  
Personal Involvement Under U.S.C 42 1983 Claim  
All Relief Requested shall be Fully Granted.  
Toxic Black mold, And Mildew Did Cause  
Sickness, Stomach pains, And Psychological  
Damages with Continuous Migraines Derived  
From Deprorable Cell Conditions, All plaintiffs  
Injuries were Indeed Reasonable Forseeble  
And physical Injuries under Conditions of  
Confinement under Eighth Amendment Include:  
A) Health And Safety Violations, Deprived Shower,  
Deprived Adequate Food meals, Deprived proper  
Cell Cleaning Supplies.  
B) Emotional distress, Pain, And Mental And  
Psychological Trauma Imposed.  
C) Attica C.F. Medical Records will show  
Back And Neck problems, Each Defendant  
shall be liable For Acts Between April 18th, 2024  
Until May 12th, 2024 At Attica C.F., IN  
C-E-18 Cell Shu Unit, B-N-6-cell RR Unit.  
Each Defendant placed plaintiff Inside  
Cells without Functioning toilet, NO Cleaning  
supply, exposed to feces,



Exposed to Black mold, Mildew, Urine, And [3]  
Vomit of Floors And Walls, Plaintiff Unable  
To Properly Clean Cell To Impose Inhumane  
Conditions of Confinement In Violation of  
The Eighth Amendment of Constitution.

No Medical Treatment, No Sick Call Remedies  
Provided After Repeated Request Made About  
Sickness And Illness Because of Black mold,  
And mildew, Forced to Live Inside Unclean  
Cells, No Proper Hygienic Items, Poor  
Ventilation Inside C-E-18 Cell And B-N-6 Cell  
To Cause harmful Effects upon Plaintiff.

Under 42 U.S.C. 1997(e)(A) Plaintiff Did  
Follow Proper Grievance Procedure And Did  
File Grievances under D.O.C.S. Directive 4040  
With Complaint Letters to D.O.C.S. Commissioner  
With Regards to Inhumane Cell Conditions,  
Relevant Documentary Evidence At Now-  
July Trial will Show And Prove Each  
Defendant Willfully Violated The Law,  
D.O.C.S. Policy, And Shall Be Personally  
Liable For Relief Under 42 U.S.C. 1983 Relief  
Based off Unsanitary Conditions,  
Unsanitary Cell Conditions To Impose  
Physical And Emotional harm.

# COUNT TWO: INADEQUATE AND DEPLORABLE UNSANITARY HOUSING, CONSTITUTIONAL VIOLATION EIGHTH-AMENDMENT:

#1) DEFENDANTS E. RACZKOWSKI, T. ELLIS, A.J. HOLMAN, SGT W. TOMPOROWSKI, OFFICER GOODWIN EACH ON APRIL 22ND, 2024 AND MAY 2ND, 2024 INSIDE C-E-18 CELL WITH NUMEROUS INSECTS, RATS, BLACK-MOLD, MILDEW, FECES ON FLOOR AND WALLS.

#2) PLAINTIFF REMAINS INSIDE C-E-18 CELL UNTIL HE WROTE GRIEVANCES AND COMPLAINTS ABOUT SEVERE HEADACHES AND NAUSEA, ON MAY, 2024 PLAINTIFF WAS PLACED INSIDE B-N-9 CELL R.R.O. BY E. RACZKOWSKI, A.J. HOLMAN, W. TOMPOROWSKI, T. ELLIS, GOODWIN WITH SMEARED FECES, AND URINE ON CELL WALLS AND CELL FLOORS, INCLUDING IN-OPERABLE TOILET, PLAINTIFF

CAN SUPPORT CONDITIONS OF CONFINEMENT CLAIM UNDER EIGHTH AMENDMENT STANDARD, PLAINTIFF SUFFERED ANTI-ATTACK BECAUSE OF UNSANITARY CELL CONDITIONS IMPOSED

PLAINTIFF FROM MAY 1ST, 2024 TO MAY 10TH 2024 WAS EXTREMELY UNCOMFORTABLE, DEPRESSED

AND HAD HEADACHE ALL DAY BECAUSE OF VIOLATION

Because of Being Exposed To Urine And  
Feces And vomit on Floor And walls For  
Over A month, plaintiff went to Attica C.F.  
medical unit Because of dizziness And  
Continuous migraines And Defendant J. Ellis,  
Sgt. W. Tomporowski, A.J. Holman, And  
Goodman through order of D.S.S. E. RACZKOWSKI;  
Deprived plaintiff Adequate Cell-Clean up,  
Adequate Food, Adequate Showers, And  
Deprivation of Personal Property.  
Plaintiff Did File Multiple Grievances  
With Regards To Inhumane Conditions of  
Confinement Is Violation of Eighth-  
Amendment Rights, Each Defendant J. Ellis,  
Sgt. A.J. Holman, Goodman, E. RACZKOWSKI,  
Sgt. W. Tomporowski All made plaintiffs  
Conditions At Attica C.F. Extremely  
difficult which Affected plaintiff's  
Entire Body And Caused Emotional distress  
Upon plaintiff Under Color of law Is  
Violation of Eighth-Amendment Under  
Conditions of Confinement Standard Claims.

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COUNT THREE: EXCESSIVE FORCE CLAIM,  
UNSAFE ENVIRONMENT / Assault claim: #1

Each Defendant E. Rackowski, J. Ellis, Sgt. A.J. Holman, Sgt. W. Tomporowski, Goodwin From April Through May, 2024 Did Mercilessly Beat And Did Savagely Assault Plaintiff Inside Medical Unit, Special housing unit, And Did Take Plaintiff To A Room on May 3<sup>rd</sup>, 2024 Inside Special Housing Unit without Cameras To Punch Plaintiff In The Face And Assault And Excessive Force. Plaintiff Health And Safety Was In Serious Danger, Defendants Purposely And Recklessly Failed To Provide Plaintiff On April 1<sup>st</sup>, 1<sup>st</sup>, 1<sup>st</sup>, May 3<sup>rd</sup>, 4<sup>th</sup>, 2024 With Proper Medical Assistance; Thereby Denying Plaintiff Constitutional Protection. Excessive Force Claim Is Appropriate; No Qualified Immunity Applies, Each Defendant E. Rackowski, J. Ellis, Goodwin, A.J. Holman, J. Ellis Each Was Well Aware Of Severe Danger Imposed And Use Deliberate Indifference And Extreme Acts Of Violence Upon Plaintiff, Grievances Were Indeed Filed.

2)  
Each Defendant E. RACZKOWSKI, J. ELLIS, A.J. Holman,  
W. Tomporowski, Goodwin Did Each In April, 2024  
And May 2024 Did Have Personally Involvement  
In Assault And Excessive Force Upon Plaintiff  
While housed Inside Attica C.F. Special housing  
Unit Did Come to C-E-18 Cell And B-N-6  
Cell Placed Plaintiff In Handcuffs Behind  
His Back, Slammed Plaintiff Head Into Door,  
Yanked Plaintiff outside of Cell And Took  
Plaintiff On May 3rd, 2024 At Around 3pm to  
A Room without Cameras to Attack And  
Use Acts of Excessive Force upon Plaintiff,  
Brutality, Torture, And Inhuman Treatment  
Inside Isolated Confinement Imposed By  
Each Defendant to put plaintiffs Health  
And Safety In Danger to Violate The  
Eighth Amendment, Plaintiff Suffered  
Severe pain In Back Area, Swelling over  
Wrist, Redness to Eyes, Plaintiff Can  
Indeed Sustain Excessive Force Claim  
Case shall proceed to NOV-Jury Trial Demand



FOURTEENTH AMENDMENT AND EIGHTEENTH AMENDMENT  
VIOLATION, EXCESSIVE FORCE CLAIM: (1)

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EXCESSIVE FORCE CLAIM IS APPROPRIATE AND NO QUALIFIED IMMUNITY APPLIES, NO PROTECTIVE MEASURES BY E. RACKOWSKI, OFFICER GOODWIN, SGT. A.J. HOLMAN, SGT. W. TOMPOROWSKI, AS DOES ANY ATTICA CORRECTIONAL FACILITY EMPLOYEES DID NOT PROVIDE ANY PROTECTIVE MEASURES, ACTS FROM APRIL 18TH, 2024 UNTIL MAY 12TH, 2024 ACTS WERE WITH DELIBERATE NEGLIGENCE TO IMPOSE INJURIES UPON PLAINTIFF. PLAINTIFF CAN INDEED SATISFY THE OBJECTIVE ELEMENT OF EXCESSIVE FORCE CLAIM. EACH DEFENDANT E. RACKOWSKI, GOODWIN, SGT. A.J. HOLMAN, SGT. W. TOMPOROWSKI, J. ELLIS, DID IMPOSE BRUISES UPON PLAINTIFF, TO USE ILLEGAL ACTS ON APRIL 22ND, 2024, MAY 3RD, 2024, MAY 5TH, 2024 BY WAY OF PURPOSELY SLAMMING, BEATING AND CAUSING PAIN TO PLAINTIFF. AT SEPARATE TIMES DEFENDANTS J. ELLIS, GOODWIN, E. RACKOWSKI, A.J. HOLMAN, SGT. W. TOMPOROWSKI, EACH SHALL BE LIABLE FOR EXCESSIVE FORCE USED UPON PLAINTIFF, DEFENDANTS HANDCUFFED AND YANKED PLAINTIFF HAD FIRST OUT OF CELL C-E-18.



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ON May 3rd, 2024 DSS. E. RACZKOWSKI, (2)  
SGT. A.J. Holman, SGT. W. Tomporowski, J. Ellis,  
OFFICER Goodwin At Around 3.30 PM OR SO Did  
Take Plaintiff To A Room Downstairs Inside  
Special Housing Unit Area Without Cameras To  
Assault, Attack, And Punch plaintiff In The  
Face To Impose Injuries From Unprovoked  
Attacks upon plaintiff. Plaintiff suffered  
swelling to eyes, Hand Wrist, Back Area,  
Shoulder Area, Each officers Conduct At  
Attica C.F. Was Not de-minimis AS A  
Matter OF law.

Plaintiff on May 3rd, 2024, May 5th, 2024  
Was Deprived To Be provided Adequate  
medical Care, Defendants E. RACZKOWSKI,  
J. Ellis, A.J. Holman, W. Tomporowski, Goodwin,  
Did Each use Professional misconduct That  
Does Indeed Rise To Level OF Excessive  
Force And Level OF Constitutional deprivation.  
EXcessive Force Claim Shall Proceed To  
NOW-JURY Trial To Support 42 U.S.C. 1983  
Relief Upon Action, use of Force WAS  
Documented, plaintiff WAS Not Seen  
By Forensic Doctor, hospital Record From

E.C.M.C. Hospital will show <sup>131</sup>proof of used Acts of Excessive Force From Attacks And Assaults Caused By D.S.S. E. Raczowski, J. Ellis, Sgt A.J. Holman, Sgt W. Tomporowski, Goodwin, Evidence At Trial will show proof of How plaintiff's Life Was In Danger At Attica C.F. And Defendants Committed Acts Under Color of law, Acts By Defendants Were Indeed Intentional And deliberate, Defendants Acts Caused Injuries Sustained Upon plaintiff, plaintiff did indeed write Grievances And Complaint Letters To DOCS Commissioner About extremely Violent Acts And Excessive Force used with Regard to deprivation of The Fourteenth Amendment under Due process Clause And under Eighth Amendment under Cruel And unusual Punishment To Support Serious damages To plaintiff's Safety And Excessive Force Chain, Each Defendant Had direct participation In Constitutional Violation Imposed Upon plaintiff.

# Count Four: Retaliatory Treatment For Being Deprived Liberty, Fourteenth Amendment Due-Process Violation:

A) - Defendants E. Raczkowski, Officer Goodwin, Sgt. A.J. Holman, Sgt. W. Tomporowski, Officer J. Ellis, Each used Retaliatory Acts upon Plaintiff From March 2024 until May, 2024, Almost Immediately After March 16th, 2024 Letter To Be Moved And Filed Grievances, Defendants E. Raczkowski, Officer Goodwin, Sgt. A.J. Holman, Sgt. W. Tomporowski, Officer J. Ellis, Each Harassed And Caused Physical Harm to Plaintiff. Each Violated:

- 1) Deprived Plaintiff Adequate Food Meals,
- 2) Deprived Plaintiff Adequate Showers,
- 3) Deprived Plaintiff Adequate Telephone Access,
- Deprived Cell Cleaning Supplies.
- 4) Deprived Adequate Medical Care + Treatment.

Retaliation used on Plaintiff By Way of Repeated Death Threats, Being Chastised, And False And Fabricated Misbehavior Reports to Place Plaintiff Inside Solitary Confinement For A 120 Day period, Imposed Punishment to Deprive Plaintiff Liberty Interest And Due-Process Interest Under Fourteenth Amendment.

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Defendants E. Raczkowski, Officer Goodwin, [2]  
Officer J. Ellis, Sgt. A.J. Holman, Sgt. W. Tomporowski;  
From March 10th, 2024 until Date April 15th, 2024  
Are Using Intentional Retaliation By Assault  
And Simply Untrue And Bias Fabrication of  
2-Differents Misbehavior Reports out of Pure  
Retaliation to place plaintiff Inside Confinement  
of 24 hour Lockdown For A Period of 120 Days.  
Under Franco v. S. Kelly, 854, F.2d, 584  
2nd Circuit Court of Appeals Ruled That  
A plaintiff Can Sue For damages under  
Section 1983 42 U.S.C. 1983 Action If Retaliatory  
Confinement And Punishment to Deprive plaintiff  
At Affica CF ON April 18th, 2024 of proper  
Liberty Interest to Satisfy 1983 Requirements.  
Plaintiff ON April 19th, 2024 At 9:30AM Was  
Place Inside Special housing unit By Defendants  
E. Raczkowski, Officer Goodwin, A.J. Holman,  
Sgt. W. Tomporowski, Officer J. Ellis From  
April 19th, 2024 until May 13th, 2024 plaintiff  
Was Deprived Adequate Food meals, Adequate  
Showers, Suffered Migraine Headaches,  
And General Pain Throughout Body Because  
of Assault Imposed By Each Defendant.

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ON April 24th, 2024 And March 9th, 2024 Inside of [3]  
Africa Special housing unit At Around 2:15 PM Each  
Defendant E. Raczkowski, Sgt. W. Tomporowski,  
Sgt. A.J. Holman, Officer Goodwin, Officer J. Ellis Each  
Forced plaintiff Inside Cell C-E-18 Cell To  
Submit to An Unlawful Strip Search In violation  
of Docs Directive 4910 And Policy. ON May 2nd,  
2024 plaintiff Inside R.P.U. Unit Cell B-N-6 Cell  
WAS Indeed Victim of Sexual Assault By  
Sgt W. Tomporowski, Officer J. Ellis, And  
D.S.S. E. Raczkowski, Victim of Sexual Assault  
WAS Indeed properly Documented. ON May 9th, 2024  
Defendant Goodwin, Sgt A.J. Holman, And  
Sgt. W. Tomporowski per orders of E. Raczkowski  
Came to B-N-6 Cell to Loudly Berate  
And Chastise plaintiff Knocking him Into  
Walls And Dragging plaintiff While In  
Handcuffs out of his Cell to Assault him  
to Cause physical Injuries And Trauma  
to plaintiff. Injures to Head, Back, Nose  
Trouble Eating, Sleeping Bleeding From Anal Area  
And Chronic Headaches Throughout Body  
Violated, Defendants shall be Fully Liable  
under vic. 1983 Claim For Action.



Each Defendant From March until May 2024 D.S.S.  
E. RACZKOWSKI, OFFICER Goodwin, SGT. A.J. HOLMAN,  
SGT. W. TOMPOROWSKI, OFFICER J. ELLIS DID AS DOCS  
EMPLOYEES DID IMPOSED A SUBSTANTIAL RISK OF  
HARM TO PLAINTIFF, EACH DEFENDANTS ACTIONS POSED  
AND EXCESSIVE RISK TO PLAINTIFF HEALTH AND SAFETY  
WHILE IN CUSTODY AT ATTICA C.F. PLAINTIFF CAN  
PROVE THAT DEFENDANTS E. RACZKOWSKI, OFFICER Goodwin,  
SGT. A.J. HOLMAN, SGT. W. TOMPOROWSKI, OFFICER J. ELLIS,  
THROUGH HIS OWN ACTIONS INDEED VIOLATED  
PLAINTIFFS CONSTITUTIONAL RIGHTS. ALL PLAINTIFFS  
INJURIES WERE INDEED REASONABLY FORESEEABLE  
TO IMPOSED CONSEQUENCES BY ILLEGAL ACTS UPON  
PLAINTIFF FROM MARCH, 2024 THROUGH MAY, 2024.  
PLAINTIFFS INJURIES INCLUDES THE FOLLOWING:  
A) EMOTIONAL DISTRESS, PAIN AND SUFFERING  
B) INJURY TO HEAD, BACK, NOSE, STOMACH PAINS,  
VISION IMPAIRMENT, CHRONIC HEADACHES, ETC.  
C) MEDICAL EXTRAS AND DOCS MEDICAL RECORDS  
AND GRIEVANCES FILED IMPOSED PHYSICAL INJURIES  
ALL CAUSED BY INTENTIONALLY HARM, FAILURE TO  
PROTECT, EXCESSIVE FORCE, RETALIATION TO PUT  
PLAINTIFFS SAFETY AT RISK, PLAINTIFF CAN  
ESTABLISH FAULT AND CAUSATION ON PART OF  
EACH DEFENDANT TO SATISFY 1983 REQUIREMENTS.



Defendants D.S.S. E. RACZKOWSKI, A.J. Holman, Sgt. W. Tomporowski, Officer Goodwin, Officer J. Ellis  
From March, 2024 until May, 2024 were Each  
Deliberately Indifferent to plaintiff's Conditions  
of Confinement And That Such Conditions And  
Raised Claims Did Indeed Pose A Substantial  
Risk of Serious harm to plaintiff Safety At  
Attica Correctional Facility, In Violation of  
the Eighth And Fourteenth Amendment.  
Plaintiff Can Fully Establish By NOV. - JUNE TRIAL  
How Each Defendant E. RACZKOWSKI, A.J.  
Holman, Sgt. W. Tomporowski, Officer Goodwin,  
Officer J. Ellis, to plaintiff under Conditions  
Posing A Substantial Risk of Serious Harm to  
plaintiff. Plaintiff Can Prove Each Defendant  
Did Intentionally Deprived plaintiff of  
Constitutional Rights By Way of Harsh Conditions,  
Plaintiff Was Seen By Doctors At: E.C.M.C.  
Medical Center And EXTRA Conducted And  
Medical Exams Conducted To Support All  
Physical Injuries In Connection With Each  
Claim And Violation Raised To Support  
Deliberate - Indifference.

(6)  
No Defendant E. RACZKOWSKI, A.J. Holman,  
Officer Goodwin, W. Tomporowski, J. Ellis  
Shall Not Be Subjected to Any Form of  
Qualified Immunity, Each Defendants Conduct  
Was Very Unlawful Under Color of Law,  
Plaintiff Can Prove By Way of A Preponderance  
of Evidence How Plaintiff Eighth And  
Fourteenth Amendments Were Indeed Violated.  
Under 42 U.S.C. 1983 Relief Each Defendant  
Shall Be held liable; Its Requested That  
A Bench Trial By Court Be ordered.  
Plaintiff Is Entitled to Compensatory Damages  
And Punitive Damages In Amount of (\$50,000)  
Documented medical reports, Injuries, Log Books,  
Camera Gallery Footage will show Evidence  
of Attacks And Physical harm By Each  
Defendant E. RACZKOWSKI, A.J. Holman, Goodwin,  
Sgt. W. Tomporowski, Officer J. Ellis Each Shall  
Be liable As Personal Defendants Under 1983  
Claim, Docs Grievances And Complaint Letters  
Sent To Commissioner Officer, Hospital Records  
From Harm Caused At All Times  
Relevant to claim

Plaintiff Can Prove Subjective And Objective  
 Prong Under Deliberate Indifference, Plaintiff  
 Can Prove Each Defendant E. Raczkowski, Goodwin,  
 Sgt. W. Tomporowski, Sgt. A.J. Holman, Officer J. Ellis  
 Each Did Not Carry out Duty of Care under  
 Color of Law, Each Defendant E. Raczkowski,  
 Sgt. W. Tomporowski, Sgt. A.J. Holman, Goodwin,  
 Officer J. Ellis used Excessive Physical Force,  
 Left Plaintiff To Die on May 3rd, 2024 Inside  
 R.R.U. Unit, Dragged And Imposed Excessive  
 Injuries Such As The Following:

1) Deprived Plaintiff From March, 2024 until  
 May, 2024 of Basic Life Necessities,  
 2) Deprived Deplorable Cell Conditions, Deprived  
 Medical Attention For Following:

A) Stomach Pains  
 B) Severe Bleeding  
 C) Type 1 And 2 Chronic Migraines  
 D) Depression  
 E) Anxiety, post-Traumatic Stress disorder  
 F) Excruciating Pain In Back, Extreme  
 Mental Anguish Imposed, Plaintiff suffers  
 Flashbacks From All Incidents of Assault.

## Relief For Damages:

As The plaintiff pro-se I'm Seeking  
Compensatory Damages In Amount of (\$65,000)  
And Seek (\$85,000) In punitive damages  
For U.S.C. 1983 Relief.

Plaintiff Seeks Award And Damages,  
Each Defendant Shall Be Personally Liable,

Its Requested (I.F.P.) Status upon In-  
forma pauperis Shall Be Fully Granted.

Its Requested U.S. Marshalls direct that  
Each Defendant D.S.S. E. RACZKOWSKI,  
OFFICER Goodwin, OFFICER J. Ellis, SGT. AJ  
Holman, SGT W. Tomporowski: At

639 Exchange Street, P.O. Box 149  
Attica, NY 14011-0149 Be Served  
Under Federal Rules Civil Pract. (4).

Plaintiff has Indeed properly Identified  
Each Defendant, All Arguments And  
Claims Are Clear And Specific  
to Support Constitutional Rights Violations.

Plaintiff under 42 U.S.C. 1997(e)(A) Did  
 Filed Grievances And Complaint Letters  
 And Did Properly Exhaust,  
 No qualified Immunity shall Be granted,  
 Compensatory damages And Punitive damages  
 shall Be Fully Awarded For Relief  
 under 42 U.S.C. 1983; Plaintiff under  
 Federal Rules of Western District Court  
 local Civil Procedures Files 42 U.S.C. 1983  
 Complaint, Documents And Exhibits with  
 Court. All Relief Requested By Plaintiff  
 shall Be Fully Granted upon Action.

Cc. File  
 Pro-se Istake Office  
 Western District Court  
 Clerk of Court

Respectfully Submitted:  
 Jeremiah (J) Herbert

Dated:  
 May 14th, 2024 Pro-se, Plaintiff  
 May 14th, 2024


# Exhibit - A) 42 U.S.C. 1983 Action

- 1) March 10th, 2024, Keep Seperate Letter Request Sent To E. Raczowski, And A.J. Holman At Attica Correctional Facility.
- 2) DOCS Directive (4040) Filed Grievances With Regards to Physical harm, Excessive Force, Inhumane Conditions of Confinement, Deportable Cell Conditions, Health And Safety Concerns!
- 3) Letter Dated: April 4th, 2024 Sent To Catherine Leahy Scott, New York Inspector General officer About Physical Harm, Failure To Protect, And Abuse, And Punishment Imposed By Each Defendant.
- 4) Letter of Concerns And Complaints Dated: May 5th, 2024 About Abuse, Torture, And Unlawful And Malicious Conduct Imposed upon Plaintiff By Each Defendant.
- 5) I.G.R.C. Response with Regards to All Filed Grievances And Violations.



I'm Writing your office As Family  
 Head of Security. IF I'm not moved off  
 Unit soon I do feel I'm be physically  
 harmed And Assaulted By unjust Attacks.  
 Please see to it I'm Rehoused off  
 A-block Company And not Exposed  
 to Threat of harm And physical Abuse.  
 I do Indeed Thank you In Advance,  
 Both Gallery Officers have been put on Notice  
 About Issues yet no professionalism or  
 protection from these two individuals are  
 being put into place.

P.C. File  
 Facility Superintendent  
 Dated: 3/10/2024

Very Truly, etc  



(2)

Jeremiah Herbert, 23B1459, A-5-36 cell  
P.O. Box 149  
Attica, N.Y. 14011  
Dated: March 10th, 2024  
(1)

Attn: E. Raczkowski, D.S.S.  
Deputy Superintendent For Security  
Formal Request: Request To Be Kept-Separated/  
Request TRANSFER OUT OF A-Block Company

DEAR E. Raczkowski, D.S.S.:  
Please Be Advised on March 10th, 2024 I Do  
Request To Be TRANSFERRED OFF OF A-Block Unit  
FOR THREATS OF SERIOUS HARM BY INMATE NELSON  
A-5-2-cell, 22B0838, AND INMATE HARDY  
A-cell 19 ARE KNOWN BLOOD GANG MEMBERS AND  
I'M BEING PROVOKED AND INTENTIONALLY  
CALLED A FAGGOT AND PUSSY AND DEATH THREATS  
TO PUT MY LIFE IN SERIOUS DANGER HAS BEEN  
MADE. ALSO AM AT RISK OF HARM AND  
VIOLENCE BEING DONE TO ME, I DO REQUEST  
TO BE KEPT-SEPARATED, ON MARCH 5th, 2024  
I WROTE SGT. A.J. HOLMAN AND SGT.  
W. TOMPOROWSKI ABOUT ISSUES NOTHING BEEN  
ADDRESSED TO PROTECT MY SAFETY. I DO  
HONESTLY FEEL UNSAFE ON A-BLOCK AND  
OFFICER GOODWIN KNOWS OF RISK BUT  
FAILS TO PREVENT IT THIS IS WHY

49- Failure to Protect

 <b>NEW YORK STATE</b> <b>Corrections and Community Supervision</b> <b>INCARCERATED GRIEVANCE PROGRAM</b> <b>COMPLAINT FORM</b>	GRIEVANCE NO.	1143-24	DATE FILED
	GRIEVANT NAME	Herbert, J	DIN 23B1459
	FACILITY	Attica	HOUSING UNIT CE-18
	PROGRAM AM _____ PM _____	DATE 4/23/24	

(This form must be filed within 21 calendar days of grievance incident\*)

Description of Problem: (Please make as brief as possible and print legibly)

SEE ATTACHED

Grievant Signature: \_\_\_\_\_

Grievance Clerk Signature: \_\_\_\_\_

Date: \_\_\_\_\_

RECEIVED

APR 25 2024

ATTICA CORR. FACILITY  
INMATE GRIEVANCEAdvisor Requested: ☐ YES ☐ NO

Who: \_\_\_\_\_

Action Requested by Grievant:

This Complaint Has Been Resolved as Follows:

Informal Resolution Accepted: (To be completed only if resolved prior to hearing)

Grievant Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Witness Signature: \_\_\_\_\_

Date: \_\_\_\_\_

If unresolved, you are entitled to a hearing by the Incarcerated Grievance Resolution Committee (IGRC).

\*An exception to the time limit may be requested under Directive #4040, § 701.6 (g).



# Corrections and Community Supervision

KATHY HOCHUL  
Governor

DANIEL F. MARTUSCELLO III  
Acting Commissioner

## MEMORANDUM

23B1459

CE-18

TO: *Herbert*

FROM: IGRC

DATE:

IGRC

RE: GRIEVANCE SUBMITTAL

Today, this office has received your complaint dated \_\_\_\_\_.

☐ It has been logged as Grievance # \_\_\_\_\_, Code \_\_\_\_\_ and titled, \_\_\_\_\_. You will be scheduled for an IGRC hearing once the investigation has been completed.

☐ It has been consolidated as a "Like" grievance with Grievance # \_\_\_\_\_.

☒ It has been logged as Grievance # 1143-24, a Code 49 and titled, *Failure to protect*. It has been passed through to the Superintendent and you will receive a response directly from the Superintendent once the investigation has been completed.

☒ It is being returned to you as the incident you referred to occurred on \_\_\_\_\_, which is beyond the 21-day timeline for filing a grievance, per Directive #4040 §701.5 (a)(1). No further action will be taken regarding this grievance.

Copies of grievances or supporting documentation should be requested via the FOIL Officer in accordance with Directive #2010.

cc: File  
Attachment

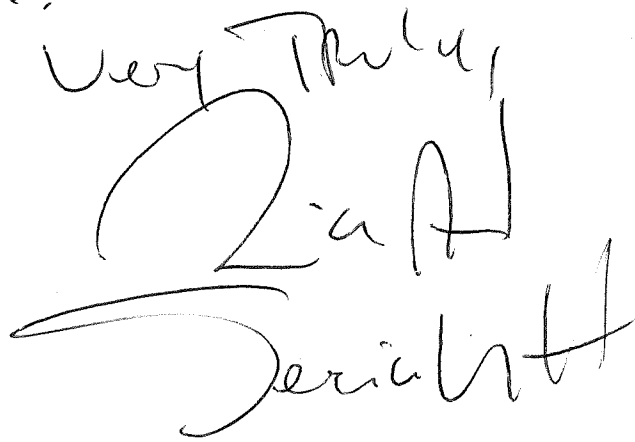
Jeremiah Herbert, 2351459, B-N-6-cell  
639 Exchange Street P.O. Box 449 Dated: May 4<sup>th</sup>, 2024  
Attica, NY 14011  
Attn: Catherine Leahy Scott, Inspector General  
State of New York,  
Attn: Deputy Commissioner Jeff McKel,  
1270 Washington Ave. Bldg #2, Albany, NY 12226

---

Violation Matter:  
Please Take Notice Here At Attica P.F. I'm  
Undergoing A Great Deal of Abuse, Brutality  
And Torture By Deputy Superintendent E.  
Raczowski, Sst AJ Holman, Sst. W. Tomporowski,  
Officer Goodwin, While Inside Special housing unit.  
I've been the victim of physical attacks and  
harm on April 18<sup>th</sup> 2024 and was sent to  
E.C.M.C. Hospital In Buffalo, NY, & tray done,  
on May 3<sup>rd</sup>, Officer J. Ellis on 3pm to 11pm  
shift, Sst. W. Tomporowski, and Sst. Holman  
came to my Cell C-E-18 and placed me  
in handcuffs and used excessive physical  
force upon me to harm me, I do not  
feel safe here At Attica P.F. and  
I'm living inside a cell with  
feces, black mold & mildew on walls,

I Write to your office About Abuse  
 of power by Docs Employees, physical  
 Torture And Assault upon my Life.  
 I've Filed Substantial Amounts of Grievance  
 with I.G.P.C. Coordinator B. Edwards under  
 Docs Directive 4040, Because of Cruel Abuse,  
 Harm And Intolerable Jail Conditions Being  
 Imposed upon my Life. I'm Seeking A  
 timely Investigation by your officer  
 I Thank you both for your time upon  
 matter in Advance.

O.C. File  
 I.G.P.C. B. Edwards  
 Superintendent officer  
 Docs officer of  
 Special Investigations

Very Truly,  
  
 Zia A.  
 Seriah  
 0301439





# Corrections and Community Supervision

KATHY HOCHUL  
Governor

DANIEL F. MARTUSCELLO III  
Acting Commissioner

## MEMORANDUM

23B1459

CE-18

TO: Herbert, J

FROM: IGRC IGRC

DATE: APR 30 2024

RE: GRIEVANCE SUBMITTAL

Today, this office has received your complaint dated \_\_\_\_\_.

☐ It has been logged as Grievance # 1183-24, Code 41 and titled, Legal Mail Records. You will be scheduled for an IGRC hearing once the investigation has been completed.


☐ It has been consolidated as a "Like" grievance with Grievance # \_\_\_\_\_.

☐ It has been logged as Grievance # \_\_\_\_\_, a Code 49 and titled, \_\_\_\_\_. It has been passed through to the Superintendent and you will receive a response directly from the Superintendent once the investigation has been completed.

☐ It is being returned to you as the incident you referred to occurred on \_\_\_\_\_, which is beyond the 21-day timeline for filing a grievance, per Directive #4040 §701.5 (a)(1). No further action will be taken regarding this grievance.

Copies of grievances or supporting documentation should be requested via the FOIL Officer in accordance with Directive #2010.

cc: File  
Attachment

 <p><b>Corrections and Community Supervision</b></p> <p><b>INCARCERATED GRIEVANCE PROGRAM</b></p> <p><b>COMPLAINT FORM</b></p>	<b>GRIEVANCE NO.</b> 1183-24	<b>DATE FILED</b>
	<b>GRIEVANT NAME</b> Herbert, J	<b>DIN</b> 23B1459
	<b>FACILITY</b> Attica	<b>HOUSING UNIT</b> CE-18
	<b>PROGRAM</b> AM _____ PM _____	<b>DATE</b> 4/25/24

(This form must be filed within 21 calendar days of grievance incident\*)

Description of Problem: (Please make as brief as possible and print legibly)

SEE ATTACHED

RECEIVED

Grievant Signature: \_\_\_\_\_

Grievance Clerk Signature: \_\_\_\_\_

Date: APR 30 2024

ATTICA CORR. FACILITY  
INMATE GRIEVANCE

Advisor Requested: ☐ YES ☐ NO Who: \_\_\_\_\_

Action Requested by Grievant:

This Complaint Has Been Resolved as Follows:

Informal Resolution Accepted: (To be completed only if resolved prior to hearing)

Grievant Signature: \_\_\_\_\_

Date: \_\_\_\_\_


Witness Signature: \_\_\_\_\_

Date: \_\_\_\_\_

*If unresolved, you are entitled to a hearing by the Incarcerated Grievance Resolution Committee (IGRC).*

\*An exception to the time limit may be requested under Directive #4040, § 701.6 (g).

24.1 - Not Issued Property in RRU

 <b>Corrections and Community Supervision</b>  <b>INCARCERATED GRIEVANCE PROGRAM</b>  <b>COMPLAINT FORM</b>	GRIEVANCE NO. <b>1270-24</b>	DATE FILED
	GRIEVANT NAME <b>Herbert J</b>	DIN <b>2381459</b>
	FACILITY <b>Attica</b>	HOUSING UNIT <b>BV-06</b>
	PROGRAM AM _____ PM _____	DATE <b>5/8/24</b>

(This form must be filed within 21 calendar days of grievance incident\*)

Description of Problem: (Please make as brief as possible and print legibly)

SEE ATTACHED

Grievant Signature: \_\_\_\_\_

Grievance Clerk Signature: \_\_\_\_\_

Date: MAY 10 2024

RECEIVED

ATTICA CORR. FACILITY  
INMATE GRIEVANCEAdvisor Requested: ☐ YES ☐ NO Who: \_\_\_\_\_

Action Requested by Grievant: \_\_\_\_\_

This Complaint Has Been Resolved as Follows: \_\_\_\_\_

Informal Resolution Accepted: (To be completed only if resolved prior to hearing)

Grievant Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Witness Signature: \_\_\_\_\_

Date: \_\_\_\_\_

If unresolved, you are entitled to a hearing by the Incarcerated Grievance Resolution Committee (IGRC).

\*An exception to the time limit may be requested under Directive #4040, § 701.6 (g).



# Corrections and Community Supervision

KATHY HOCHUL  
Governor

DANIEL F. MARTUSCELLO III  
Acting Commissioner

## MEMORANDUM

23B1459

BW-6

TO: *Herbert, S*

FROM: IGRC

DATE:

RE: GRIEVANCE SUBMITTAL

IGRC

MAY 10 2024

Today, this office has received your complaint dated \_\_\_\_\_.

☐ It has been logged as Grievance # 1270-24, Code 24.1 and titled, not issued properly to RAC. You will be scheduled for an IGRC hearing once the investigation has been completed.

☐ It has been consolidated as a "Like" grievance with Grievance # \_\_\_\_\_.

☐ It has been logged as Grievance # \_\_\_\_\_, a Code 49 and titled, \_\_\_\_\_. It has been passed through to the Superintendent and you will receive a response directly from the Superintendent once the investigation has been completed.


☐ It is being returned to you as the incident you referred to occurred on \_\_\_\_\_, which is beyond the 21-day timeline for filing a grievance, per Directive #4040 §701.5 (a)(1). No further action will be taken regarding this grievance.

Copies of grievances or supporting documentation should be requested via the FOIL Officer in accordance with Directive #2010.

cc: File  
Attachment



35- Denied Complaint

 <b>Corrections and Community Supervision</b>  <b>INCARCERATED GRIEVANCE PROGRAM</b>  <b>COMPLAINT FORM</b>	GRIEVANCE NO. <b>1271-24</b>	DATE FILED
	GRIEVANT NAME <b>Harbert, J</b>	DIN <b>2381459</b>
	FACILITY <b>Attica</b>	HOUSING UNIT <b>BN-06</b>
	PROGRAM AM _____ PM _____	DATE <b>5/8/24</b>

(This form must be filed within 21 calendar days of grievance incident\*)

Description of Problem: (Please make as brief as possible and print legibly)

SEE ATTACHED

Grievant Signature: \_\_\_\_\_

Grievance Clerk Signature: \_\_\_\_\_

Date: \_\_\_\_\_

RECEIVED

MAY 10 2024

ATTICA CORR. FACILITY  
INMATE GRIEVANCE

Advisor Requested: ☐ YES ☐ NO

Who: \_\_\_\_\_

Action Requested by Grievant:

This Complaint Has Been Resolved as Follows:

Informal Resolution Accepted: (To be completed only if resolved prior to hearing)

Grievant Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Witness Signature: \_\_\_\_\_

Date: \_\_\_\_\_

If unresolved, you are entitled to a hearing by the Incarcerated Grievance Resolution Committee (IGRC).

\*An exception to the time limit may be requested under Directive #4040, § 701.6 (g).



# Corrections and Community Supervision

KATHY HOCHUL  
Governor

DANIEL F. MARTUSCELLO III  
Acting Commissioner

## MEMORANDUM

23B1459

BD-6

TO: *Herbert, J*

FROM: IGRC

IGRC

DATE:

MAY 10 2024

RE: GRIEVANCE SUBMITTAL

Today, this office has received your complaint dated \_\_\_\_\_.

☐ It has been logged as Grievance # 1271-24, Code 35 and titled, David Comm. You will be scheduled for an IGRC hearing once the investigation has been completed.

☐ It has been consolidated as a "Like" grievance with Grievance # \_\_\_\_\_.

☐ It has been logged as Grievance # \_\_\_\_\_, a Code 49 and titled, \_\_\_\_\_. It has been passed through to the Superintendent and you will receive a response directly from the Superintendent once the investigation has been completed.


☐ It is being returned to you as the incident you referred to occurred on \_\_\_\_\_, which is beyond the 21-day timeline for filing a grievance, per Directive #4040 §701.5 (a)(1). No further action will be taken regarding this grievance.

Copies of grievances or supporting documentation should be requested via the FOIL Officer in accordance with Directive #2010.

cc: File  
Attachment



410 - NEEDS NOTARY

 <b>NEW YORK STATE</b> <b>Corrections and Community Supervision</b>  <b>INCARCERATED GRIEVANCE PROGRAM</b>  <b>COMPLAINT FORM</b>	GRIEVANCE NO. <b>1261-24</b>	DATE FILED
	GRIEVANT NAME <b>HERBERT, J.</b>	DIN <b>23B1459</b>
	FACILITY <b>ATTICA</b>	HOUSING UNIT <b>BN-6</b>
	PROGRAM AM _____ PM _____	DATE <b>5/7/24</b>

(This form must be filed within 21 calendar days of grievance incident\*)

Description of Problem: (Please make as brief as possible and print legibly)

SEE ATTACHED

RECEIVED

Grievant Signature: \_\_\_\_\_ MAY 09 2024

Grievance Clerk Signature: \_\_\_\_\_ Date: \_\_\_\_\_ ATTICA CORR. FACILITY  
INMATE GRIEVANCEAdvisor Requested: ☐ YES ☐ NO Who: \_\_\_\_\_

Action Requested by Grievant:

This Complaint Has Been Resolved as Follows:

Informal Resolution Accepted: (To be completed only if resolved prior to hearing)

Grievant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Witness Signature: \_\_\_\_\_ Date: \_\_\_\_\_

If unresolved, you are entitled to a hearing by the Incarcerated Grievance Resolution Committee (IGRC).

\*An exception to the time limit may be requested under Directive #4040, § 701.6 (g).



# Corrections and Community Supervision

KATHY HOCHUL  
Governor

DANIEL F. MARTUSCELLO III  
Acting Commissioner

## MEMORANDUM

2301459

BV-6

TO: *Herbert, S*

FROM: IGRC

IGRC

DATE:

MAY 09 2024

RE: GRIEVANCE SUBMITTAL

Today, this office has received your complaint dated \_\_\_\_\_.

☐ It has been logged as Grievance # 1261-24, Code 40 and titled, Needs Policy. You will be scheduled for an IGRC hearing once the investigation has been completed.


☐ It has been consolidated as a "Like" grievance with Grievance # \_\_\_\_\_.

☐ It has been logged as Grievance # \_\_\_\_\_, a Code 49 and titled, \_\_\_\_\_. It has been passed through to the Superintendent and you will receive a response directly from the Superintendent once the investigation has been completed.

☐ It is being returned to you as the incident you referred to occurred on \_\_\_\_\_, which is beyond the 21-day timeline for filing a grievance, per Directive #4040 §701.5 (a)(1). No further action will be taken regarding this grievance.

Copies of grievances or supporting documentation should be requested via the FOIL Officer in accordance with Directive #2010.

cc: File  
Attachment

 <b>Corrections and Community Supervision</b>  <b>INCARCERATED GRIEVANCE PROGRAM</b>  <b>SUPERINTENDENT RESPONSE</b>	GRIEVANCE NO. A-1143-24		DATE FILED 4/25/2024
	FACILITY Attica CF		POLICY DESIGNATION INSTITUTIONAL
	TITLE OF GRIEVANCE Failure to protect		CASE CODE 49
	SUPERINTENDENT'S SIGNATURE <i>Alison G. [Signature]</i>		DATE 4/30/2024
GRIEVANT Herbert, J.		DIN 23B1459	HOUSING UNIT CE-18

The grievant asserts that they were assaulted by an I/I and staff failed to respond.

The grievant's allegations have been referred to the Office of Special Investigations to be investigated.

The grievance is accepted to the extent that their allegations have been forwarded to the appropriate entity for investigation.

#### APPEAL STATEMENT

If you wish to appeal the above decision of the Superintendent, please sign below and return this copy to the IGRC at the facility where the grievance was filed. You have seven (7) calendar days from receipt of this notice to file your appeal.\* Please provide a reason why you are appealing this decision to CORC.

---



---



---

\_\_\_\_\_  
GRIEVANT'S SIGNATURE


\_\_\_\_\_  
DATE

\_\_\_\_\_  
GRIEVANCE CLERK'S SIGNATURE

\_\_\_\_\_  
DATE

\*An exception to the time limit may be requested under Directive #4040, section 701.6 (g)

49- Threatened by Staff / Rusty Punks / Dirty Cell

 <b>Corrections and Community Supervision</b>  <b>INCARCERATED GRIEVANCE PROGRAM</b>  <b>COMPLAINT FORM</b>	GRIEVANCE NO. <b>1250-24</b>	DATE FILED
	GRIEVANT NAME <b>Herbert, J</b>	DIN <b>2381459</b>
	FACILITY <b>Attica</b>	HOUSING UNIT <b>B-06</b>
	PROGRAM AM _____ PM _____	DATE <b>5/6/24</b>

(This form must be filed within 21 calendar days of grievance incident\*)

Description of Problem: (Please make as brief as possible and print legibly)

SEE ATTACHED

Grievant Signature: \_\_\_\_\_

RECEIVED

Grievance Clerk Signature: \_\_\_\_\_

Date: MAY 08 2024ATTICA CORR. FACILITY  
INMATE GRIEVANCEAdvisor Requested: ☐ YES ☐ NO Who: \_\_\_\_\_

Action Requested by Grievant: \_\_\_\_\_

This Complaint Has Been Resolved as Follows: \_\_\_\_\_

Informal Resolution Accepted: (To be completed only if resolved prior to hearing)

Grievant Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Witness Signature: \_\_\_\_\_

Date: \_\_\_\_\_

If unresolved, you are entitled to a hearing by the Incarcerated Grievance Resolution Committee (IGRC).

\*An exception to the time limit may be requested under Directive #4040, § 701.6 (g).



# Corrections and Community Supervision

KATHY HOCHUL  
Governor

DANIEL F. MARTUSCELLO III  
Acting Commissioner

## MEMORANDUM

23B1459

BD-6

TO: *Herbert, J*  
FROM: IGRC *IGRC*  
DATE: MAY 08 2024  
RE: GRIEVANCE SUBMITTAL

Today, this office has received your complaint dated \_\_\_\_\_.

☐ It has been logged as Grievance # \_\_\_\_\_, Code \_\_\_\_\_ and titled, \_\_\_\_\_. You will be scheduled for an IGRC hearing once the investigation has been completed.

☐ It has been consolidated as a "Like" grievance with Grievance # \_\_\_\_\_.

☐ It has been logged as Grievance # 1250-24, a Code 49 and titled, *harassment by staff Racist*. It has been passed through to the Superintendent and you will receive a response directly from the Superintendent once the investigation has been completed.

☐ It is being returned to you as the incident you referred to occurred on \_\_\_\_\_, which is beyond the 21-day timeline for filing a grievance, per Directive #4040 §701.5 (a)(1). No further action will be taken regarding this grievance.

Copies of grievances or supporting documentation should be requested via the FOIL Officer in accordance with Directive #2010.

cc: File  
Attachment



# Corrections and Community Supervision

KATHY HOCHUL  
Governor

DANIEL F. MARTUSCELLO III  
Acting Commissioner

## MEMORANDUM

23B1459

BO-6

TO: *Herbert J*  
FROM: IGRC IGRC  
DATE: MAY 13 2024  
RE: GRIEVANCE SUBMITTAL

Today, this office has received your complaint dated 12-7-24.

☐ It has been logged as Grievance # \_\_\_\_\_, Code 24.1 and titled, David iters. You will be scheduled for an IGRC hearing once the investigation has been completed.

☐ It has been consolidated as a "Like" grievance with Grievance # \_\_\_\_\_.

☐ It has been logged as Grievance # \_\_\_\_\_, a Code 49 and titled, \_\_\_\_\_. It has been passed through to the Superintendent and you will receive a response directly from the Superintendent once the investigation has been completed.


☐ It is being returned to you as the incident you referred to occurred on \_\_\_\_\_, which is beyond the 21-day timeline for filing a grievance, per Directive #4040 §701.5 (a)(1). No further action will be taken regarding this grievance.

Copies of grievances or supporting documentation should be requested via the FOIL Officer in accordance with Directive #2010.

cc: File  
Attachment

\*A  
FOR



 <p><b>Corrections and Community Supervision</b></p> <p><b>INCARCERATED GRIEVANCE PROGRAM</b></p> <p><b>COMPLAINT FORM</b></p>	GRIEVANCE NO.	1279-24	DATE FILED
	GRIEVANT NAME	HERBERT, J.	DIN
	FACILITY	ATTICA	HOUSING UNIT
	PROGRAM		DATE
	AM	PM	5/1/24

(This form must be filed within 21 calendar days of grievance incident\*)

Description of Problem: (Please make as brief as possible and print legibly)

SEE ATTACHED

RECEIVED

Grievant Signature: \_\_\_\_\_

Grievance Clerk Signature: \_\_\_\_\_

Date: \_\_\_\_\_

MAY 13 2024

ATTICA CORR. FACILITY  
INMATE GRIEVANCE

Advisor Requested: ☐ YES ☐ NO Who: \_\_\_\_\_

Action Requested by Grievant:

This Complaint Has Been Resolved as Follows:

Informal Resolution Accepted: (To be completed only if resolved prior to hearing)

Grievant Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Witness Signature: \_\_\_\_\_

Date: \_\_\_\_\_

If unresolved, you are entitled to a hearing by the Incarcerated Grievance Resolution Committee (IGRC).  
An exception to the time limit may be requested under Directive #4040, § 701.6 (g).



# Corrections and Community Supervision

KATHY HOCHUL  
Governor

DANIEL F. MARTUSCELLO III  
Acting Commissioner

## MEMORANDUM

23B1459

BW-6

TO: *Harbert, J*

FROM: IGRC

IGRC

DATE:

MAY 13 2024

RE: GRIEVANCE SUBMITTAL

Today, this office has received your complaint dated \_\_\_\_\_.

☐ It has been logged as Grievance # 1278-24, Code 24.1 and titled, cell shield, David Marks. You will be scheduled for an IGRC hearing once the investigation has been completed.


☐ It has been consolidated as a "Like" grievance with Grievance # \_\_\_\_\_.

☐ It has been logged as Grievance # \_\_\_\_\_, a Code 49 and titled, \_\_\_\_\_. It has been passed through to the Superintendent and you will receive a response directly from the Superintendent once the investigation has been completed.

☐ It is being returned to you as the incident you referred to occurred on \_\_\_\_\_, which is beyond the 21-day timeline for filing a grievance, per Directive #4040 §701.5 (a)(1). No further action will be taken regarding this grievance.

Copies of grievances or supporting documentation should be requested via the FOIL Officer in accordance with Directive #2010.

cc: File  
Attachment

 <p><b>Corrections and Community Supervision</b></p> <p><b>INCARCERATED GRIEVANCE PROGRAM</b></p> <p><b>COMPLAINT FORM</b></p>	GRIEVANCE NO. <b>1278-24</b>	DATE FILED
	GRIEVANT NAME <b>HERBERT, J.</b>	DIN <b>23B1459</b>
	FACILITY <b>ATTICA</b>	HOUSING UNIT <b>BN-6</b>
	PROGRAM AM _____ PM _____	DATE <b>5/9/24</b>

*(This form must be filed within 21 calendar days of grievance incident\*)*

Description of Problem: (Please make as brief as possible and print legibly)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
**SEE ATTACHED**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**RECEIVED**

Grievant Signature: \_\_\_\_\_

Grievance Clerk Signature: \_\_\_\_\_

Date: **MAY 13 2024**

ATTICA CORR. FACILITY  
INMATE GRIEVANCE

Advisor Requested: ☐ YES ☐ NO Who: \_\_\_\_\_

Action Requested by Grievant:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This Complaint Has Been Resolved as Follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Informal Resolution Accepted: (To be completed only if resolved prior to hearing)

Grievant Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Witness Signature: \_\_\_\_\_

Date: \_\_\_\_\_

*If unresolved, you are entitled to a hearing by the Incarcerated Grievance Resolution Committee (IGRC).*

\*An exception to the time limit may be requested under Directive #4040, § 701.6 (g).

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

Jeremiah Herbert

(b) County of Residence of First Listed Plaintiff

Wyoming

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

P.O. Box 149, Attica, WY 82401

## DEFENDANTS

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION

(Place an "X" in One Box Only)

☐ 1 U.S. Government Plaintiff☒ 3 Federal Question (U.S. Government Not a Party)☐ 2 U.S. Government Defendant☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

## IV. NATURE OF SUIT

(Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

## V. ORIGIN (Place an "X" in One Box Only)

☒ 1 Original Proceeding    ☐ 2 Removed from State Court    ☐ 3 Remanded from Appellate Court    ☐ 4 Reinstated or Reopened    ☐ 5 Transferred from Another District (specify)    ☐ 6 Multidistrict Litigation - Transfer    ☐ 8 Multidistrict Litigation - Direct File

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

42 U.S.C. 1983 Relief

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint.

JURY DEMAND: ☐ Yes ☒ No

## VIII. RELATED CASE(S) IF ANY

(See Instructions):

JUDGE

None

DOCKET NUMBER

None

DATE

5/9/2024

SIGNATURE OF ATTORNEY OF RECORD

Zig

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE



Jeremiah Folsom Herbert, Pro-se,  
Din # Q3B1459, Attica Collectional ~~for~~  
639 Exchange Street, P.O. Box 149  
Attica, NY 14011-0149

TO: Chief Clerk of  
WESTERN District Court  
U.S. District Court  
Western District of  
Q- NIAGARA SQUARE  
BUFFALO, NEW YORK

Att: Pro-se Ista

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